
By: **Delegate Hubbard**

Introduced and read first time: February 10, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disability Administration and Department of Health and**
3 **Mental Hygiene - Inspections and Investigations - Reports**

4 FOR the purpose of requiring the Developmental Disability Administration and the
5 Department of Health and Mental Hygiene to make certain inspections and
6 investigations in response to incident reports made, deaths that occur at, and
7 complaints that concern certain facilities; requiring the Administration and
8 Department to make certain reports on certain inspections and investigations;
9 requiring the Administration and Department, on request, to fully disclose
10 certain reports with certain exceptions to any person; and generally relating to
11 inspections and investigations of certain facilities regarding deaths, complaints,
12 and incident reports by the Administration and Department.

13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 7-909 and 19-309
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Health - General**

21 7-909.

22 (a) In this section, the word "licensee" means a person who is licensed by the
23 Administration under this title to provide services.

24 (b) The Administration or its agent shall inspect each site or office operated by
25 a licensee [at]:

26 (1) AT least once annually [and at any other time that the
27 Administration considers necessary];

1 (2) UPON A REPORT OF DEATH PROVIDED IN ACCORDANCE WITH § 7-207
2 OF THIS TITLE;

3 (3) AT ANY TIME THE ADMINISTRATION RECEIVES AN INCIDENT
4 REPORT; AND

5 (4) AT ANY OTHER TIME THE ADMINISTRATION CONSIDERS NECESSARY.

6 (c) (1) The Administration shall keep a report of each inspection.

7 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
8 ADMINISTRATION, ON REQUEST, SHALL MAKE COMPLETE COPIES OF EACH
9 INSPECTION REPORT AVAILABLE TO ANY PERSON.

10 (3) AN INSPECTION REPORT MADE AVAILABLE TO THE PUBLIC UNDER
11 PARAGRAPH (2) OF THIS SUBSECTION MAY NOT CONTAIN:

12 (I) THE NAME OF A PATIENT;

13 (II) THE IDENTITY OF A COMPLAINANT;

14 (III) THE ADDRESS OF ANY INDIVIDUAL OTHER THAN AN OWNER OF
15 AN INSPECTED PROGRAM OR FACILITY; OR

16 (IV) ANY INFORMATION THAT COULD BE DEFAMATORY AS TO ANY
17 IDENTIFIABLE PERSON.

18 (d) The Administration shall bring any deficiencies to the attention of:

19 (1) The executive officer of the licensee; or

20 (2) In the case of an intermediate care facility-mental retardation, the
21 State Planning Council and the State-designated protection and advocacy agency.

22 19-309.

23 (a) Notwithstanding any other provisions of this subtitle, each hospital or
24 residential treatment center shall be open to inspections by the Department to
25 investigate and resolve any complaint concerning patient care, safety, medical and
26 nursing supervision, physical environment, sanitation [or], dietary matters, OR
27 DEATH.

28 (b) (1) To resolve expeditiously a complaint that alleges the existence of any
29 nonlife-threatening deficiency, the Department may refer the complaint directly to
30 the hospital or residential treatment center.

31 (2) If appropriate, issues relating to the practice of medicine or the
32 licensure or conduct of a health professional shall be referred to the hospital or the
33 residential treatment center and may be referred to the appropriate licensure board
34 for resolution.

1 (3) If the Department determines that the hospital or residential
2 treatment center has not satisfactorily addressed the referred complaint or where the
3 complaint alleges the existence of a life-threatening deficiency, the Department shall
4 conduct an independent investigation. When conducting its independent
5 investigation, the Department shall use:

6 (i) For an accredited hospital or accredited residential treatment
7 center, the current applicable standards of review of the Joint Commission on
8 Accreditation of Healthcare Organizations;

9 (ii) For a nonaccredited hospital or nonaccredited residential
10 treatment center, the standards adopted by the Secretary under this subtitle;

11 (iii) For an accredited or nonaccredited hospital that is a facility as
12 defined under § 19-319.2 of this subtitle, the requirements of §§ 10-701 through
13 10-709 of this article; and

14 (iv) For an accredited or nonaccredited residential treatment center,
15 the requirements of §§ 10-701 through 10-709 of this article.

16 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
17 DEPARTMENT, ON REQUEST, SHALL MAKE ANY INFORMATION DISCOVERED DURING
18 AN INVESTIGATION CONDUCTED UNDER THIS SECTION AVAILABLE TO ANY PERSON.

19 (D) THE DEPARTMENT MAY NOT DISCLOSE UNDER SUBSECTION (C) OF THIS
20 SECTION ANY INFORMATION CONCERNING:

21 (1) THE NAME OF A PATIENT;

22 (2) THE IDENTITY OF A COMPLAINANT;

23 (3) THE ADDRESS OF ANY INDIVIDUAL OTHER THAN AN OWNER OF AN
24 INVESTIGATED PROGRAM OR FACILITY; OR

25 (4) ANY INFORMATION THAT COULD BE DEFAMATORY AS TO ANY
26 IDENTIFIABLE PERSON.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.